

**YADKIN COUNTY BOARD OF COMMISSIONERS
REGULAR MINUTES
FEBRUARY 19, 2007**

The Yadkin County Board of Commissioners met in Regular Session on Monday, February 19, 2007, at 7:00 P.M., in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, NC.

Present were:

Chairman Ms. Kim Clark Phillips
Vice Chairman Tommy Garner
Brady Wooten
Joel Cornelius
Chad Wagoner

Staff present: Interim County Manager and Interim Clerk to the Board Eric Williams, County Attorney James Graham, Assistants for the Manager Scarlett Huffman and Melanie Leleux.

CALL TO ORDER by Chair Phillips

INVOCATION by James Graham

PLEDGE OF ALLEGIANCE led by Amanda Hicks, a senior student from Forbush High School

ADJUSTMENTS TO THE AGENDA

Motion by Commissioner Wooten to approve the agenda adjustments as follows:

- Discussion of a personnel matter
- Major Danny Widener to address the Board
- Omit "Consent Agenda" items for this meeting

Motion seconded by Commissioner Garner

Vote: 5-0

PUBLIC COMMENTS

Jimmy Steelman of Hamptonville expressed strong support of using the names of God and Jesus in the invocational prayer.

Dave George made a call for the Christian community to take a stand against placing restrictions on the invocational prayer. George stated that one person out of an entire county has made an issue of the matter, and that one person should not be the deciding factor for change for the entire population. George believes the Board should not give in to the ACLU.

Motion by Commissioner Wooten to suspend limits for no more than two speakers on any given issue was seconded by Commissioner Cornelius.

Chairman Phillips stressed the importance in remaining under the limits of the Constitution in any action they take.

Vote: 4-1 (Wagoner)

Chris Hauser, Associate Pastor and Youth Minister for South Oak Ridge Baptist Church addressed the Board concerning his support of leaving the names of God and Jesus in the invocational prayer.

Victor Seiders of Yadkinville discussed his continued dissent with the method of Invocation used by the Board. Seiders said that while the prayer Mr. Graham used for this particular meeting did not contain the use of the words in question, the word Lord was used, and the prayer was still very Christian in nature. Seiders pointed out that the Constitution guarantees freedom of religion no matter what one's religion may be, and allows for no establishment of religion in government. Seiders cited that any individual should be free to attend Board meetings without being exposed to a religion-specific prayer.

Commissioner Wagoner made a point of order that the restriction on public comment that limits a person to speak on a given topic only once in a four week period should be suspended.

Motion by Chairman Phillips to suspend the Public Comments rules at any meeting as the Board deems necessary.

Motion seconded by Commissioner Wooten

Vote: 5-0

APPROVAL OF MINUTES

Motion by Commissioner Wooten to approve the minutes of the February 5th Regular Meeting with the following changes:

- Commissioner Garner noted that the biblical verses he cited on page 14 should have been Matthew 6:5-8
- Chairman Phillips noted that on page 2 the statement of David Swann of Crossroads Behavioral Healthcare should specify that the Crisis Recovery facility in Statesville had been closed from June 2006-January 2007, but is now reopened.
- Chairman Phillips asked that the misspelling of Jack Loudermilk's name on page 13 be corrected.
- Chairman Phillips stated that the second line of the section of Manager Comments on page 16 relating to the sale of County property to Eddie Yarborough should read, "purchase of County property located on Highway 21."

Motion was seconded by Commissioner Cornelius

Vote: 5-0

Closed Session minutes to be reviewed and acted upon after the break.

PUBLIC HEARING(S) OR ACTION TO SET A PUBLIC HEARING

Planning and Development Director Kim Bates proposed the addition of Article 16 titled "Parallel Conditional Districts and the Conditional Rezoning Process." The process is purely legislative and subject to the same judicial reviews and procedures as a General Use zoning district. A Parallel Conditional Use District is subject to the ordinance standards of corresponding General Use zoning districts. This type of zoning would create a very specific district and apply it to a particular property. Uses considered for a Parallel Conditional Use district would be restricted to the uses provided for in the corresponding General Use district.

Bates stated that some land uses are on such scale as to have a significant impact on the surrounding area and entire community which cannot be predetermined and controlled by General District requirements.

The article includes application materials and a site plan check list. Bates said the North Carolina General Assembly adopted this enabling statute (153A 342 A & B) in 2005. Charlotte/Mecklenburg was the first to use this type of zoning method. Bates stated that an added benefit of the Parallel Conditional Use zoning is that it can assist the jurisdiction in avoiding potential legal issues with contract or spot zoning.

Commissioner Garner asked if the statute includes just the property developers and owners or the neighbors as well. Bates replied the property owners are the only ones included, but the neighboring property owners are notified of Public Hearing and Planning Board Hearing as per County policy.

George Humphrey, attorney for Ms. Louise Whitaker expressed Ms. Whitaker's concerns regarding the proposed amendment to the zoning ordinance, stating that with this particular process there is no opportunity for a quasi-judicial review. Humphrey said that it is unclear as to when the public has the opportunity to become involved with the rezoning process and that there are specific requirements in Article 4, Section 3 which seem to be absent from the proposed Article 16. Bates replied that the changes would be subject to requirements in the section on changes and amendments.

Chairman Phillips said the Planning Board holds recommendation responsibilities. In contrast, the Board of Adjustment is a legislative body of a quasi-judicial nature. If the Board of Adjustments contests a recommendation of the Planning Board the issue becomes a decision of the Board of County Commissioners, as the ultimate County legislative authority lies with the Board of Commissioners.

Commissioner Garner inquired if Humphrey desired any rezoning public hearings to be published twice in a local newspaper. Bates answered that this requirement is already in the procedures and would apply. He also noted that letters are sent to adjacent property owners prior to Planning Board hearings. Humphrey stated that Section 2 requires that property must be rezoned by the Board of Commissioners.

Chairman Phillips declared the session for Public Comments closed.

Bates proposed a zoning text amendment on Conservation Subdivision which would give some level of density relief as well as minor changes to definitions of the Conditional Use zoning in Mixed Use projects. He asked for a public hearing to be set for the March 1st Regular Meeting.

Commissioner Wooten inquired if the discussion would pertain to pan handle lots, subdivisions, subdivisions exempt, subdivisions minor and panhandle lot building setback. Bates confirmed and stated that the purpose of the hearing would be to establish definitions for these types of parcels.

Commissioner Wooten stated that he had received information that the Planning Board had not approved nor recommended the action Bates had proposed, and that the matter would be better discussed in Closed Session. Bates contended that the Planning Board could produce minutes from the meeting in question to confirm that the proposal had been recommended.

Commissioner Garner requested the minutes from the Planning Board meeting during which the recommendation for the subdivision issue was discussed.

Chairman Phillips read the Yadkin County, NC Board of Commissioners Statement of Consistency pursuant to G. S. 153A-341 regarding Proposed Zoning Text Amendment: Article 16, "Parallel Conditional Zoning and the Rezoning Process".

Motion by Commissioner Cornelius to approve the Zoning Text Amendment Statement of Consistency

Seconded by Commissioner Wagoner

Vote: 5-0

BOARD APPOINTMENTS

Planning Board nominees to fill the term of Mr. Poplin set to expire in July 2007 were Mr. Jack Loudermilk and Mr. Bob Reinhardt.

Nomination of Bob Reinhardt made by Chairman Phillips.

Mr. Graham cited that no second was needed for a nomination.

Vote: 5-0

Chairman Phillips called for a 10 minute recess at 8:30 p.m.

APPROVAL OF MINUTES—CLOSED SESSION

Motion by Commissioner Cornelius to approve Closed Session minutes with the following changes:

- Chairman Phillips noted that on February 15th Commissioner Garner was present, and
- On February 14th the word ‘immediately’ was misspelled.

Second by Commissioner Wooten

Vote: 5-0

A meeting was scheduled for the Board of Commissioners, the Planning Board and the Board of Adjustments on Monday, March 12, 2007 at the Planning Board office to discuss the changes in subdivision definitions.

BOARD ACTION ITEMS

Motion by Commissioner Wooten to authorize tax refunds to Mr. Michael Funk, Appraiser and Upper Yadkin Valley Habitat for a total of \$210.91 was seconded by Commissioner Cornelius.

Vote: 5-0

Motion by Commissioner Wooten to authorize the Tax Administrator to advertise tax liens on real property was seconded by Commissioner Cornelius.

Vote: 5-0

Motion by Commissioner Cornelius to approve the Project Budget Ordinance for the North Carolina Housing Finance Agency 2007 Single Family Rehabilitation Project was seconded by Commissioner Wooten.

Vote: 5-0

REPORTS TO THE BOARD

Randy Darden of Arcadis reported the Highway 601 water line project was nearing completion, and the County should receive the contractor’s first pay request on or about February 20, 2007 in the amount of \$172,018. Darden also stated the cost to change the water valve on the Pardue property to a fire hydrant will be approximately \$5,500 and requested Board approval of such change.

Darden stated that the Old Stage Road water project is in a position to proceed pending Board approval. Darden said the project cost amount of \$48,000 falls well below the projected budget of \$60,000.

Darden noted that permits and Requests for Easement are being obtained for the Hoots Road sewer project. The Permit Crossing Approval for Interstate 77 is still in process. Modifications to both pump stations will reduce operation and maintenance costs.

Concerning the Jonesville water main, Darden said the contractor is ready to proceed on Tuesday, February 20, 2007.

Darden also reported his plan to request a greater contingency percentage in the request for funding. He stated that once that amount is fixed into the contract, no additional can be requested.

In reply to Commissioner Wooten's inquiry on time frame for Easement Request completion, Darden said first priority is to complete the Jonesville water main, and then begin either the Hoots Road or Interstate 77 project.

Chairman Phillips noted that the Hanover Park Vineyard has requested the County to pay water line hook up costs.

Darden stated that approximately 70% of the Requests for Easements for the Jonesville project are complete and asked that a Notary Public member of staff be dedicated to the completion of the task.

Commissioner Wooten asked if the County had adequate staff resources, and if the County Manager saw need to employ new staff Mr. Williams answered that personnel may need to be temporarily pulled from another department, but believes the issue can be covered without the necessity of hiring a new employee.

Motion by Commissioner Wooten to approve replacement of the air valve on the Pardue property with a fire hydrant was seconded by Commissioner Cornelius.

Vote: 5-0

Motion by Commissioner Garner to postpone the decision to run water line to Mr. Myers' concrete plant until further information is received was seconded by Commissioner Wooten.

Commissioner Wagoner requested that a concrete date be set for the final determination. The Board agreed to finalize their decision at the March 19th Regular Meeting.

Vote: 5-0

Motion by Commissioner Wagoner to submit permits to the EDA was seconded by Commissioner Cornelius.

Vote: 5-0

Motion by Commissioner Garner to postpone modification of air valve on Old Stagecoach Road until additional information is received regarding concrete plant connection was seconded by Commissioner Wooten.

Commissioner Wagoner asked for clarification on the cost of concrete plant connection to be provided as soon as possible.

Vote: 5-0

Eddie Weatherman, Yadkin County Fire Marshall presented proposed Fire Prevention Ordinances to cover inspection fees, fines, etc. Weatherman contended that in the past, while most people and organizations do remit payment and correct cited violations, the County had no defined method to obtain fees and fines. Presently, he said, the current system of issuing fines and determining inspection fees is complicated. Weatherman presented options for new fees such as Fuel Dispensary Fees at filling stations, cutting back on exemptions (most churches, County, State, and Federally owned buildings, EMS organizations, DSS foster homes, etc. are not charged a fee for fire inspections), allowing 90 days for violation correction and charging a double amount fee for the second inspection if the violation remains uncorrected and greater means of payment enforcement. Weatherman stated the proposed ordinances would incorporate a fee schedule and civil penalties. The minimum inspection schedule according to State requirement is based on the type of occupancy of the structure, but can be performed more frequently.

Weatherman agreed to present a completed proposed ordinance at the March 19th Regular Meeting.

Motion by Commissioner Cornelius to postpone authorization of Fire Prevention Ordinances until March 19th Regular Meeting was seconded by Commissioner Wooten.

Chairman Phillips requested knowledge of the fee increases for approval at that time.

Vote: 5-0

Kim Bates, Director of Yadkin County Planning and Development suggested new fees for bonds for performance guarantees, new wireless towers and zoning letter certifications. Bates stated the proposed fees are consistent with those of surrounding counties. The proposal would add approximately 10 new fees to the fee schedule, and, if received at a constant rate, would add \$10,000-12,000 more to department revenue yearly.

Motion by Commissioner Cornelius to adopt new Planning and Service fee schedule effective April 1st, 2007 was seconded by Commissioner Wooten.

Vote: 5-0

Garv Hayes, Director of Inspections and Central Permitting prepared a fee comparison with surrounding counties. He stated that while Yadkin County is on the low end, the fees are relatively in line with those surrounding areas with the exception of fees for commercial buildings. Hayes stated the reason for the short fall is that the fee schedule is currently based on building cost and proposed basing the fee on building square footage instead. Hayes proposed adding inspection fees for garages, unfinished basements and unfinished upper levels. He also proposed a fee increase for double wide and single wide mobile homes to \$250 for a single wide and \$300 for a double wide mobile home as well as increasing miscellaneous fees such as the ABC permit for which there is as yet no charge. Hayes said the fee increases would add to department revenue; however the department would not become self-supporting.

Motion by Commissioner Cornelius to approve said fee changes effective April 1st, 2007 was seconded by Commissioner Wooten.

Vote: 5-0

MANAGER REPORTS/COMMENTS

Motion by Commissioner Cornelius to increase sales tax for benefit of school construction was seconded by Commissioner Garner.

Commissioner Wooten stated his refusal of supporting a tax increase.

Vote: 4-1 (Wooten opposed)

Mr. Eric Williams addressed the Board regarding several items as follows:

- Bids have been received for a new flat roof for the Agriculture Extension Office building, and bids for a pitched roof are expected.
- Ron Niland, Town Manager of Jonesville hired Goldsmith & Associates to prepare grant applications for obtaining fund to correct the water issues of the Mountain Crest Subdivision.

Kim Bates stated that the Health Department downplayed the seriousness of the issues, but he has not yet seen their official report.

Chairman Phillips remarked that it was unclear if the grand application submissions had been made by Niland.

Mr. Williams said since Goldstein & Associates were under contract to prepare the grant applications, the County is moving in the right direction.

- Receipt of a Notice of Rezoning Request for a property adjacent to a Yadkin County owned parcel across Highway 601 from the Surry Community College facility in Yadkinville. The property is now zoned as low-density residential, and the proposed zoning change would be for possible strip development. The property owner stated the requested change is for marketing purposes only.
- Chairman Phillips requested more information regarding the proposed Middle Schools before any discussion could take place.
- A conference call was scheduled with Kronos to discuss a possible new payroll system for which Commissioner Cornelius had previously requested information.
- Regarding jail population reports, the Jail Pack software does not reflect the number of prisoners detained by Yadkin County who were displaced to surrounding counties. He noted the Jail Population Reports are expected on a monthly basis. He also reported the court house bull pen renovations costs were \$25,000, and well under the proposed \$50,000 budget.
- Reminder to the Board of the jail architect interviews scheduled for Monday, February 26th and Tuesday, February 27th, the next Regular meeting reschedule from March 1st to March 5th, and the NACo conference which Chairman Phillips will be attending.
- Disclosed information to the Board of the new North Carolina Legislative Update Program for Managers which include weekly conference calls.
- The public relations material regarding the Solid Waste Department will run again in the Yadkin Ripple and the changes will become effective as of March 1, 2007.
- **Motion by Commissioner Cornelius to adopt the Resolution from the NCDOT adding Bent Tree Way to the State System for Secondary Road Improvements was seconded by Commissioner Wooten.**

Vote: 5-0

- A bid for water fountain replacement in the Planning and Permits building requests a cost of \$750-\$870 for installation of a new water fountain. A second opinion is awaited.
- Additional information is forthcoming from First Southwest Company regarding bottom line cost savings.
- Closed session discussion is needed for a personnel matter.

COMMISSIONER COMMENTS

Commissioner Wooten inquired as to why the Board of Commissioners would vote on the YVEDDI issue, but not the Department of Social Services transportation program. Mr. Graham stated that he is waiting for more information.

Commissioner Wooten expressed his support of continuing the Courtney-Huntsville Road water line to include Courtney Elementary School and Hanover Park Vineyard.

Motion by Commissioner Wooten to proceed on the water line extension was not seconded. The motion died for lack of support.

Commissioner Wooten expressed desire that all departments be required to obtain a minimum of 3 bids on products and services costing \$1,000 or greater.

Motion by Commissioner Wooten to discuss the issue was seconded by Commissioner Cornelius.

Mr. Graham stated that any product or services greater than \$100,000 requires a formal bid procedure, and that any item under \$5,000 does not require competition in bids.

Chairman Phillips said she does not see that there has been a problem with the issue in the past, and it seems such a requirement would only serve to complicate simple repairs.

Vote: 1-4 (Wooten in favor)

Commissioner Wooten expressed his strong opposition to the new jail construction as well as his concern that he feels the Board has not fully considered lower-cost alternatives.

Commissioner Garner stated that he is not opposed to extending water to Courtney Elementary School, but wishes to obtain more information before making a decision on the issue.

Chairman Phillips cited the remaining \$450,000 in budget cuts for the 2006-2007 budget which are still to be addressed. She requested Commissioner Wooten to identify from where the budget cuts will come and make recommendations, as a new budget year is approaching.

Motion by Commissioner Cornelius to continue to Closed Session discussion at 10:55 p.m. was seconded by Commissioner Garner.

Vote: 5-0

Clerk to the Board